

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

**CIVIL REVISION APPLICATION No. 2014 of 1995
With
CIVIL REVISION APPLICATION No. 2018 of 1995**

For Approval and Signature:

HONOURABLE MR.JUSTICE S.R.BRAHMBHATT

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- 1 Whether Reporters of Local Papers may be allowed to see the judgment ?
 - 2 To be referred to the Reporter or not ?
 - 3 Whether their Lordships wish to see the fair copy of the judgment ?
 - 4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
 - 5 Whether it is to be circulated to the civil judge ?

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MANSUKHBHAI MADHAVJI RAVAL - Applicant
Versus
KANAIYALAL UTTAMCHAND SHROFF - Opponent

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Appearance :

MR RD DAVE for Applicant :

NANAVATI ASSOCIATES for Opponent :

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CORAM : HONOURABLE MR.JUSTICE S.R.BRAHMBHATT

Date : 31/07/2008

COMMON CAV JUDGMENT

1. The petitioner – original tenant had preferred these Revision Applications against the opponent-landlord challenging the common order dated 31/7/2008 passed by Learned Appellate Bench of the Small Cause Court, Ahmedabad in Civil Appeal

Nos. 12 of 1992 and 13 of 1992, dismissing the appeals.

2. Facts in brief deserve to be set out as under.

The original landlord had preferred proceedings in the form of HRP Suit No. 1387 of 1980 against the tenant for recovering possession on the ground of raising permanent structure in the suit premises without his consent. The landlord had started disturbing the tenant and filed another HRP Suit No. 662 of 1984 against the tenant seeking order that the tenant be restrained and enjoined from objecting the landlord from putting building material in the compound of the tenanted premises and may further restrain from damaging such goods and materials of the landlord and restrain him therefrom objecting putting up any construction.

3. The tenant therefore filed HRP Suit No. 1827 of 1984 against the landlord seeking relief of permanent injunction against removing compound wall and or damaging the premises and causing hindrance in peaceful occupation. Both the suits were consolidated and heard together. Learned Judge, Small Causes Court dismissed HRP Suit No. 1827 of 1984 filed by the tenant and partly allowed HRP Suit No. 662 of 1984 filed by the landlord holding that the tenant has no right over the terrace and the construction activity if any undertaken by landlord deserves to be permitted to be undertaken.

4. Being aggrieved by dismissal of HRP Suit No. 1827 of 1984 and on partly allowing HRP Suit No. 662 of 1984, the tenant preferred aforesaid appeals being Civil Appeal No. 12 of 1992 and 13 of 1992. The said appeals were heard together by the Appellate Bench, Small Causes Court, Ahmedabad and dismissed both the appeals by common judgment dated

31/7/1995.

5. This Court heard learned counsels of the parties and perused record and proceedings of the Courts below. This Court, after considering the facts available on the record and legal position, come to the conclusion that the findings of the trial Court as well as that of the Appellate Court do not deserve to be disturbed at this stage, as there being no error apparent on the face of the record warranting interference. Both the Revision Applications therefore deserve to be dismissed and is accordingly dismissed. Rule discharged in both the revision applications. No cost.

[S.R. BRAHMBHATT, J]

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